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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
(Butte)

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THE PEOPLE,  
  
Plaintiff and Respondent,  
  
v.  
  
MICHAEL JACOB RICHARD SCHLOSSER,  
  
Defendant and Appellant.

C060942  
  
(Super. Ct. No.  
CM028911)

On May 10, 2008, Gridley police officers were on duty at the Portuguese Hall providing security for a wedding reception and a birthday. From prior contacts, the officers recognized defendant Michael Schlosser and some of his companions as Norteño gang members. Private security guards told the officers defendant and his friends would not be allowed into the hall because of their gang-affiliated clothing.

The officers spoke with defendant and noticed defendant appeared nervous. They asked defendant if he was carrying anything illegal, specifically weapons, and defendant denied that he was. He refused to let officers search him and then ran

from them. He was ordered to stop and continued to run. He reached into his waistband and removed a gun. He continued to run away, pointing the gun in the officers' direction. Defendant lost his grip on the gun, it fell to the ground, and he was arrested.

Defendant was charged with assault with a firearm upon a peace officer (count 1), resisting an executive officer (count 2) and carrying a concealed firearm (count 3). As to counts 1 and 2, it was further alleged defendant had used a firearm. As to count 3, it was further alleged the firearm was not registered to defendant.

Defendant pleaded no contest to count 2 and admitted the firearm use enhancement. As part of the plea bargain, it was agreed the remaining counts would be dismissed with *Harvey* (*People v. Harvey* (1979) 25 Cal.3d 754) waivers. A Penal Code section 1203.03 report was prepared. The correctional counselor recommended incarceration and the staff psychologist recommended probation. The associate warden agreed with the correctional counselor that defendant was a poor candidate for probation.

The court denied defendant probation. Defendant was sentenced to an aggregate term of six years in prison and was ordered to pay a \$1,200 restitution fine. The court recommended defendant attend drug and alcohol counseling while in prison.

Defendant now appeals. He did not obtain a certificate of probable cause.

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts of the

case and requests this court to review the record and determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days elapsed, and we received no communication from defendant. Having undertaken an examination of the entire record, we find no arguable error that would result in a disposition more favorable to defendant.

### DISPOSITION

The judgment is affirmed.

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HULL, J.

We concur:

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SCOTLAND, P. J.

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ROBIE, J.